



ASSESSMENT and  
QUALIFICATIONS  
ALLIANCE

# Mark scheme

# June 2003

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## GCE

## LAW

### Unit LAW2

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## Assessment Objectives One and Two

### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of candidates, mainly 17 years old, who have completed some part of the advanced subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.*

### **Positive Marking**

*You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.*

### **Mark Range**

*You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.*

### **Levels of Response for Essay Marking**

*When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?*

### **Citation of Authority**

*Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.*

### Assessment Objective Three

#### Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- Level 3** Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling. **4-5 marks**
- Level 2** Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning. **2-3 marks**
- Level 1** Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning. **1 mark**
- Level 0** Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning. **0 marks**

**1****Total for this question: 30 marks**

The problem with magistrates is that they are middle aged, middle class and middle minded.”

- (a) Explain how lay magistrates and District Judges (Magistrates’ Courts) are selected and appointed. *(15 marks)*

**Potential Content**

- (A) Explanation of selection and appointment of lay magistrates, eg application, role of advisory committee, requirement of balance, role of Lord Chancellor, initial training
- (B) Explanation of selection and appointment of District Judges – from ranks of barristers and solicitors, advertisements, selection procedure

**Mark Bands**

- 12 – 15            The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance in treatment between them.
- 8 – 11            The candidate demonstrates a clear understanding of (A) or (B) (**max 8**) with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial  
**or**  
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**).
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) - (B).
- 1 – 3            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0                The answer contains no relevant information.

(b) Identify and discuss the advantages and disadvantages of the use of lay magistrates.

(15 marks)

### Potential Content

- (A) Identification and discussion of advantages of use of Magistrates, eg trial by peers, number of cases dealt with, open justice, public confidence, fairness, limited number of appeals
- (B) Identification and discussion of disadvantages of Magistrates, eg perception of bias to police/prosecution, unrepresentative nature, influence of clerk, inconsistency

### Mark Bands

- 12 – 15            The candidate demonstrates a sound understanding of (A) and (B), although there may be some imbalance in treatment between them.
- 8 – 11            The candidate demonstrates a clear understanding of either (A) or (B) (**max 8**) with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial  
**or**  
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B), (**max 5 if identification only**).
- 1 – 3            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0                The answer contains no relevant information.

**2****Total for this question: 30 marks**

- (a) Tribunals are an alternative venue to a court for hearing certain types of civil cases. Outline the types of cases tribunals deal with and briefly explain how this form of Alternative Dispute Resolution (ADR) works. *(10 marks)*

**Potential Content**

- (A) Brief explanation of organisation of tribunals, eg separate from courts, legally qualified chair and lay members, relative informality, appeals
- (B) Brief explanation of work of one or more tribunals, eg statutory cases such as employment

**Mark Bands**

- 8 – 10            The candidate demonstrates a sound understanding of (A) and (B) , although there may be some imbalance in treatment between them.
- 5 – 7            The candidate demonstrates a clear understanding of either (A) or (B) **(max 6)** with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 3 – 4            The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 – 2            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                The answer contains no relevant information.

- (b) Briefly describe the **other** main forms of ADR and discuss the advantages and disadvantages of ADR as a form of dispute resolution. *(20 marks)*

**Potential Content**

- (A) Brief description of other methods of ADR. eg Arbitration, Conciliation, Mediation, Negotiation, Ombudsman
- (B) Advantages of ADR, eg informal, self representation, use of experts, speed, convenience, less confrontational attitude
- (C) Disadvantages of ADR, eg lack of reasoning, use of precedent, appeals to court system, enforcement of awards, lack of legal aid

**Mark Bands**

- 16 – 20            The candidate demonstrates a sound understanding of the issues in which a sound explanatory background of (A) is used to discuss the advantages and disadvantages as in (B) and (C).
- 11 – 15            The candidate demonstrates a clear understanding of either (A), (B) or (C) with some reference to the others  
**or**  
the candidate demonstrates a sound understanding of (A) and either (B) or (C)  
**or**  
the candidate covers (A) – (C) so that the answer is broad and coherent though a little superficial.
- 6 – 10            The candidate displays some understanding by introducing consideration of any of the material in (A) – (C).
- 1 – 5              The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                  The answer contains no relevant information.

**3****Total for this question: 30 marks**

- (a) Outline how someone currently studying for A levels can train and qualify **either** as a barrister **or** as a solicitor. *(15 marks)*

**Potential Content**

- (A) Explanation of academic training and qualification of barristers – degree entry, CPE/Diploma for non law degree, BVC, pupillage, membership of Inn, call to Bar
- (B) Explanation of academic training and qualification of solicitors – degree entry, CPE/Diploma for non law degree, LPC, training contracts, enrolled in Law Society
- NB** Reference to qualifying through Legal Executive route may enhance quality of (B)

**Mark Bands**

- 12 – 15            The candidate demonstrates a sound understanding of either (A) or (B).
- 8 – 11            The candidate demonstrates a clear understanding of either (A) or (B).
- 4 – 7             The candidate displays some understanding by introducing consideration of any of the material in (A) or (B).
- 1 – 3             The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                  The answer contains no relevant information.

Note: If candidate covers (A) and (B), consider both and credit the stronger only.

- (b) Outline the work of both barristers and solicitors and discuss how they can be held responsible for poor work. (15 marks)

### Potential Content

- (A) Outline of work of Barristers and Solicitors – eg taking and receiving instructions, advice, advocacy on topics such as conveyancing, probate, civil and criminal litigation, commercial
- (B) Discussion of how Solicitors are held to account – eg responsibility for negligent work and advice both in and out of court, appeals, possible reference to disciplinary process
- (C) Discussion of how Barristers are held to account – eg responsibility for negligent work and advice both in and out of court, appeals, possible reference to disciplinary process

### Mark Bands

- 12 – 15            The candidate demonstrates a sound understanding of the issues in which a sound explanatory background of (A) is used to discuss responsibility as in (B) and (C).
- 8 – 11            The candidate demonstrates a clear understanding of **two** of (A) - (C) (**max 8 for one only**)  
**or**  
the candidate covers (A) - (C) so that the answer is broad and coherent though a little superficial  
**or**  
the candidate demonstrates a sound understanding of (A), (B) or (C) (**max 10**), with some reference to another.
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 – 3            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0            The answer contains no relevant information.

4

**Total for this question: 30 marks**

(a) Explain the various ways by which an individual can finance a civil claim. (20 marks)

**Potential Content**

- (A) Explanation of forms of State funding, eg Legal Help, Representation
- (B) Explanation of conditional fees
- (C) Explanation of alternative forms of advice and assistance by lawyers, eg by private finance, insurance companies, organisations such as AA or RAC
- (D) Description of alternative forms of advice and assistance by non lawyers, eg CAB, advice centres, trade unions, private advice agencies via telephone or Internet

**Mark Bands**

- 16 – 20 The candidate demonstrates a sound understanding of **at least three** of (A) – (D)  
**or**  
the candidate demonstrates a sound understanding of **two** of (A) – (D) (**max 17**) with reference to the other(s)  
**or**  
the candidates demonstrates a clear understanding of (A) – (D) (**max 17 for three**).
- 11 – 15 The candidate demonstrates a sound understanding of **one** of (A) - (D) (**max 13**) with reference to another  
**or**  
the candidate demonstrates a clear understanding of **two** of (A) – (D) (**max 13**) with reference to another  
**or**  
the candidate covers a range of (A) – (D) so that the answer is broad and coherent though a little superficial.
- 6 – 10 The candidate displays some understanding by introducing consideration of any of the material in (A) – (D).
- 1 – 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Comment on the advantages and disadvantages of settling a civil case instead of going to trial.  
(10 marks)

**Potential Content**

- (A) Advantages of early settlement, eg cost, early payment, maintaining relationships, lack of publicity
- (B) Disadvantages of early settlement, eg bargaining power of parties, lower award, lack of publicity for issue

**Mark Bands**

- 8 – 10 The candidate demonstrates a sound understanding of (A) and (B), although there may be some imbalance in treatment between them.
- 5 – 7 The candidate demonstrates a sound understanding of either (A) or (B)  
**or**  
the candidate demonstrates a clear understanding of either (A) or (B) (**max 5**) with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 3 – 4 The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 – 2 The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
A more substantial attempt at description is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

**5****Total for this question: 30 marks**

(a) Describe the different roles of the judge and jury in a Crown Court trial. *(15 marks)*

**Potential Content**

- (A) Description of role of judge, eg ruling on points of law, control of court, directing jury, sentencing
- (B) Description of role of jury, eg listening to evidence, secret discussions, verdicts (unanimous/majority)

**Mark Bands**

- 12 – 15            The candidate demonstrates a sound understanding of (A) and (B) , although there may be some imbalance in treatment between them.
- 8 – 11            The candidate demonstrates a sound understanding of either (A) or (B) (**max 10**) with reference to the other  
**or**  
the candidate demonstrates a clear understanding of either (A) or (B) (**max 8**) with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 – 3            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                The answer contains no relevant information.

- (b) Identify and discuss the advantages and disadvantages of using a jury to decide the verdict in a criminal trial. (15 marks)

**Potential Content**

- (A) Identification and discussion of advantages of jury trial, eg trial by peers, open justice, public confidence, fairness
- (B) Identification and discussion of disadvantages of jury trial, eg perverse verdicts, bias, unrepresentative nature, selection procedures, influence, media and other pressures, complexity of issues

**Mark Bands**

- 12 – 15            The candidate demonstrates a sound understanding of (A) and (B) , although there may be some imbalance in treatment between them.
- 8 – 11            The candidate demonstrates a sound understanding of (A) or (B) **(max 10)**  
**or**  
the candidate demonstrates a clear understanding of either (A) or (B) **(max 8)** with some reference to the other  
**or**  
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B) **(max 5 if identification only)**.
- 1 – 3            The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                The answer contains no relevant information.

**ASSESSMENT GRID**

(to show the allocation of marks to Assessment Objectives)

**Advanced Subsidiary Level law (LAW2)**

<b>UNIT 1</b>	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(x2 from 5)	(x 2 from 5)	
<b>AO3</b> (Quality of written communication for the paper as a whole)			5
<b>Total marks</b>	40	20	5
<b>% of the AS</b>	18.5	9	2.5
<b>% of the A Level</b>	9.25	4.5	1.25